Maharashtra Regional & Town Planning Act, 1966 -

Levy, Recovery & Collection of Development charge - Clarification regarding by way of Direction under Section 154 of the Act -

GOVERNMENT OF MAHARASHTRA
Urban Development Department
Mantralaya, Bombay-32.

Dated the 29th June, 1994.

MEMORANDUM

No.Dev.charge/TPS 1294/RR-341/UD-12.- Whereas Government in Urban Development Department has further amended the Maharashtra Regional and Town Planning Act, 1966, as the Maharashtra Regional & Town Planning (Amendment) Act, 1992 (Mah.XVI of 1992) (hereinafter referred to as the 'Said Act'):

And whereas, Government in Urban Development Department vide Notification No.TPS 1290/CR-104/90/UD-12, dated 5th August 1992 has brought into force the said Act with effect from 10th August, 1992;

And whereas many Planning Authorities / Development Authorities are facing difficulties in recovering Development charge in respect of certain specific cases and have therefore approached Govt. from time to time, seeking clarification in regard to certain issues.

And whereas Government finds it expedient to issue requisite clarification to all the Planning Authorities / Development Authorities of the Maharashtra State, so as to make them justified in levy, recovery and collection of development charge as contemplated in the said Act.

And whereas Government also finds it expedient to issue the requisite clarification to all the Planning Authorities / Development Authorities by taking recourse to the provisions of Section 154 of the Maharashtra Regional & Town Planning Act, 1966.

Now therefore, in exercise of powers vested in it, under Section 154 of the said Act, Government hereby gives following clarification by way of directions under section 154 of the said Act all the Planning Authorities / Development Authorities.

DIRECTIONS

i) All the Planning Authorities / Development Authorities shall take into account the following clarification, while assessing, levying and recovery Development Charge contemplated in the said Act.

ii) These directions shall be brought into force with immediate effect.

iii) Following is the clarification on some of issues.

Sr. No.	Subject	Clarification
1.	Payment of Development in instalment.	If desired by the owner/developer, Planning Authorities / Developm t Authorities may issue commencement Certificate/building permit/ Check Intimation of Disapproval Notice in two stages and accor recover Development Charge in stages as indicated below: Stage I : 50% of Developmen Charge payable in total for construction upto plinth level. Stage II : 50% of Development charge for remaining construction work.

b.) ~~b)~~ Development charge for land development shall not be payable in instalments.

Recovery of Development Charge for land Development.

(1) In cases where layout has been approved or Development Charges shall be recovered only for building construction and not for land development.

(2) In cases where minor amendment to the layout approved prior to 10.8.92 are proposed or where Development charge for land development has already been collected in past, no Development Charge should be levied for such amendment of layout provided there is no exploitation of excess FSI, in which case Development Charge shall be levied proportionately for excess FSI to be consumed.

/land development and development charge for

(3) No Development Charge shall be levied by Planning Authorities at the time of approval of layout or subdivision of land Development Charge for /building construction together land Development in such cases, may be recovered ~~xxxxxx~~ collectively while approving building plans. It should however be clearly stipulated in order approving layout that no land development shall be taken in hand unless development Charge for the same are paid separately.

(4) Development Charge for land development shall be as per area of plot (i.e. area which is taken for computation of FSI). No land development charge shall be levided for development of Recreation Ground/Garden. However when building other type of construction development is contemplated on such R.G./Garden, development charge will

2. be charged for the actual built up area.

3. Development charge for minor repairs.

(1) <u>Construction compound wall:-</u>

Compound wall is meant for protection of property and as such no development charge shall be levied for construction of compound wall or for repairs of compound wall.

(2) No Development Charge shall be recovered in respect of maintenance work, internal repairs of buildings, or for strengthening the existing building providing such works do not involve consumption of additional floor space.

(3) For reconstruction work Development Charge shall be levied in full which involves demolition of existing buildings and reconstruction of new building.

4. Development Charges for Reconstruction of old/delapidated buildings.

In case a Cooperative Housing Society is authorised by Maharashtra Housing & Area Development Authority or Bombay Housing & Area Development Board to undertake reconstruction of old/delapidated building (which work woulds otherwise, have been undertaken by MHADA/BHADB),

[illegible] X consumption of additional FSI and

No Development Charge shall be recovered from that cooperative Housing Society, provided the Floor Space Index does not exceed the existing or permissi FSI whichever is lower. Provide further that it accomodates existing tenents only. Further in reconstruction involving accomodation of additional members otherthan existing tenents ~~inxxxconstructionxinvolvingx consumptionxofxadditionalxFSIxx&x~~ proportion te Development Charge shall be recovered.

5) Development charge for development of slum.	No Development charge should be levied for redevelopment of restructuring of consumed slums upto 2.5 FSI as envisaged in Regulation 33(10) of Development Control Regulations for Greater Bombay, 1991 or such slums accommodating such inhabitants whose names appear in the Legislative Assembly Voters list of 1985 by the owners/developers Co-op. Hsg. Societies, to the extent of accommodation of slum dwellers only. This facility be extended to redevelopment of slums from other towns as and when the respective Development Control Regulations of these towns are modified.
6) Recovery of Development charge, where development permission is revalidated	No Development charge shall be levied where the building permission is revalidated by Planning Authority before 10th August 1992, provided this exemption applied to the entire time span upto which the building permission is revalidated. (For example, if any building permission is revalidated on 9.8.92 for 1 year, then development charge shall not be levied for a period of 1 year commencing from 9.8.92 i.e. upto 9.8.92. However, if the permit is to be revalidated on or after 9.8.93, development charge shall be levied).

By order and in the name of the Governor

of Maharashtra.

(J.S. PANTBALEKUNDRI,)
Deputy Secretary to Government of
Maharashtra.

To,

All Municipal Corporations.

The Managing Director, CIDCO,
Nirmal, Nariman Point, Bombay-21.

The Metropolitan Commissioner,
Bombay Metropolitan Region Development Authority,
C-14/15, Bandra Kurla Complex, Bandra (E),
Bombay-51.

The Chief Executive Officer, MIDC,
Marol, Andheri (E), Bombay.

The Chief Executive Officer, MHADA,
Griha Nirman Bhavan, Bandra (E), Bombay-51.

The Chief Executive Officer,
Bombay Housing & Area Development Board,
Griha Nirman Bhavan,
Bombay-51.

The Chief Executive Officer,
Pimpri Chinchwad New Town Development Authority,
Nigadi,
Pune.

The Director of Town Planning, Pune.

The Chief Officers of all Municipal Councils.

Divisional Deputy Director of Town Planning,
Greater Bombay / Konkan Divn. / Pune Divn. /
Nashik Divn. / Aurangabad Divn. / Nagpur Divn. /
Amravati Divn.

GOVERNMENT OF MAHARASHTRA
Corrigendum NO.Dev.Charge/TPS-1294/RR.341/UD-12,
Urban Development Department,
Mantralaya, Bombay-400032.
Dated 31st October 1994.

C O R R I G E N D U M

Government in Urban Development Department vide Memorandum of even number dated the 29th June 1994 has issued certain directions under section 154 of the Maharashtra Regional and Town Planning Act, 1966, in regard to Levy, Assessment and Recovery of Development Charges by Planning Authorities/ Development Authorities.

02. In partial modification to the aforementioned clarification, I am directed to convey the following direction under section 154 of the Act in respect of clarification at Sr.No.6 of the said direction dated 29th June 1994 pertaining to recovery of Development Charges, where development permission is revalidated.

DIRECTIONS

a) 1) Contents of clarification offered against Sr.No.6 of Government Memorandum of even number dated 29th June 1994, should be treated as cancelled;

2) And instead the following clarification should be applied to such cases :-

"Recovery of Development Charge , where development permission is revalidated.	: No development charge shall be levied in cases, where development permission is granted prior to 10th August 1992 and the owner subsequenly approaches the Planning Authority/Development Authority any time within a period of four years from the date of issue of development permission (or IOD in cases from Greater Bombay), irrespective of the fact, ~~xhxxx~~ wherther the construction work has been commenced or not, provided the development permission is revalidated from time to time as per provisions of Section 48 of the M.R.&.T.P.Act,1966. However, the development Charge shall be recovered in the event of lapse of development permission in

.p.t.o.

terms of provisions of section 48 of the Maharashtra Regional and Town Planning Act, 1966".

By order and in the name of the Governor of Maharashtra,

(G.S.Pantbalekundri)
Deputy Secretary to Government.

1) Municipal Commissioner/Administrator, All Municipal Corporations,

2) Metropolitan Commissioner, Bombay Metropolitan Region Development Authority, Bandra, Bombay-52.

3) Managing Director, CIDCO, Nirmal Building, 2nd floor, Nariman Point, Bombay-21.

4) Chief Executive Officer, Maharashtra Housing & Area Development Authority, Griha Nirman Bhavan, Kalanagar, Bandra(E),Bombay-52.

5) Chief Executive Officer, Pimpri-Chinchwad New Town Development Authority, Nigdi, Pune,

Chief Executive Officer, MIDC, Marol, Mahakali Caves,Marg, Andheri(East), Bombay,

Chief Officers, All Municipal Councils,

Director of Town Planning, Maharashtra State, Pune,

Under Secretary, UD-11, UD-13,

Desk Officer, UD-9.

DRAFT CIRCULAR

Sub :- Levy, recovery and collection of development charges.

Ref :- Memorandum dated 29.6.94 from Government of Maharashtra in Urban Development Deptt.

......

The Government of Maharashtra in Urban Development Deptt. by Memorandum dated 29.6.94 have issued directives under section 154 of M.R.& T.P.Act, 1966, clarifying some of the issues in implementing the levy, recovery and collection of development charges, levied as per the Notification No. TPS-1290/CR-104/90/UD-12 dated 5.8.1992. The Sr.No.2 of the said directives pertains to recovery of development charges for land development. As per the present practice, Building proposal Deptt. recovers development charges for land component of the new building even in the layout approved prior to 10.8.1992, considering it as exploitation of excess FSI, as stated in the Govt. Clarification under sr.no.2. Various representations have been received from the Architects and the developers objecting to the interpretation by the Corporation of the Government clarification and as effecting recovery of development charges of the land component, in the approved layout.

After careful consideration of the provisions of Sub-Clause 10 of amended Section 124 (A) of M.R.& T.P.Act, 1966 and further clarification from the State Government in Urban Development Deptt. by their Memorandum dated 29.6.94, it is decided to implement the directives as under in respect of layouts the

i) In cases where layout has been approved prior to 10.8.92, development charges ~~prior to 10.8.92~~ shall be recovered only for building construction and not for land development.

ii) In the case where the original layout approved prior to 10.8.92 is proposed to be amended, where additional FSI potential is not generated due to proposed amendment

in the layout, the development charges shall be recovered only for bldg. construction and not for land development.

iii) Where additional FSI potential is gendrated due to amendment to the layout approved prior to 10.8.92, the development charges for land component shall be levied to the extent of additional FSI generated/available in the amended layout.

iv) Change in the location of D.P. Reservations, change in location of layout R.G. or change in the alignment of internal access road within the Layout will be considered as minor amendments to the layout, provided no additional FSI potential is genrated due to these changes.

The development charges for the land component recovered earlier may be refunded to the concerned owner/developer on receipt of specific application for the same, without any interest. Dy.Ch.E (B.P) of the respective zones will be competent authority for sanctioning such a refund.

All the concerned staff working in Building Proposal Section are requested to take note of abovementioned guidelines which come in force with immediate effect.